

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

June 27, 2005

IN RE:

**PETITION FOR APPROVAL OF THE EXTENSION
OF WATER PURCHASE AGREEMENT BETWEEN
TENNESSEE AMERICAN WATER COMPANY AND
THE TOWN OF SIGNAL MOUNTAIN, TENNESSEE**

)
)
)
)
)
)

**DOCKET NO.
04-00088**

ORDER APPROVING EXTENSION OF WATER PURCHASE AGREEMENT

This matter came before Director Pat Miller, Director Sara Kyle, and Director Ron Jones of the Tennessee Regulatory Authority ("Authority" or "TRA"), the voting panel assigned to this docket, at the regularly scheduled Authority Conference held on April 26, 2004 for consideration of the *Extension of Water Purchase Agreement* ("*Special Contract*") between Tennessee American Water Company ("TAWC" or "Company") and the Town of Signal Mountain, Tennessee ("Town")

The Authority approved the original water purchase agreement ("Agreement") between the Company and the Town by Order dated August 18, 1997 in TRA Docket No. 97-01305. The Agreement is a sale-for-resale agreement. As stated in the Authority's Order of August 18, 1997, under the terms of the Agreement, the Town agreed to purchase a minimum of 273,750,000 gallons per year for three (3) years at a cost of ninety-five cents (\$0.95) per 1,000 gallons and to pay an additional charge if the Town's usage is below that amount. The Authority also approved a three year extension of this Agreement lasting until July 1, 2003 in Docket No. 00-00745, under the same terms and conditions.

The Authority has jurisdiction over this matter pursuant to Tenn. Code Ann. § 65-5-101 *et seq* and Authority Rule 1220-4-1- 07, which states.

SPECIAL CONTRACTS. Special contracts between public utilities and certain customers prescribing and providing rates, services and practices not covered by or permitted in the general tariffs, schedules or rules filed by such utilities are subject to supervision, regulation and control by the Authority. A copy of such special agreements shall be filed, subject to review and approval.

The *Special Contract* was filed with the Authority on March 15, 2004. The *Special Contract* seeks to extend the Agreement an additional three (3) years beginning July 1, 2003 and ending July 1, 2006. The rate charged for water service will increase from ninety-five cents (\$0.95) per 1000 gallons to one dollar and two cents (\$1.02) per 1000 gallons. The new rate represents a price increase of approximately seven percent (7%) and is approximately the same increase established for the Company's other customers in TAWC's most recent rate case before the Authority which was considered in TRA Docket No. 03-00118.¹ All other terms, conditions, privileges, and obligations set forth in the Agreement remain unchanged.

The Company's estimated annual revenues under the *Special Contract* will be three hundred thirty thousand dollars (\$330,000) as compared with approximately three hundred seven thousand dollars (\$307,000) under the existing contract. In addition, the estimated annual revenue of three hundred thirty thousand dollars (\$330,000) represents a discount of ten thousand dollars (\$10,000) from the Company's regular tariff rates.

The terms of the Agreement and of the *Special Contract*, which distinguish the Town from the Company's tariff customers, justify a departure from the Company's tariff through a special contract. The Agreement is a sale-for-resale agreement, a category that does not exist

¹ See *In re Petition of Tennessee American Water Company to Change and Increase Certain Rates and Charges so as to Permit It to Earn a Fair and Adequate Rate of Return on Its Property Used and Useful in Furnishing Water Service to Its Customers*, Docket No. 03-00118, *Final Order Approving Rate Increase and Rate Design and Approving Rates Filed by Tennessee American Water Company* (June 25, 2004) and *Concurrence and Dissent of Director Pat Miller* (June 25, 2004).

under TAWC's current tariff.² The inclusion of a three (3) year term of service and a minimum usage requirement further distinguishes the Town from the Company's tariff customers. The Agreement also requires the Town to maintain storage capacity equal to one (1) day's water supply, which allows the Company to provide water to the Town during non-peak periods, thereby avoiding higher on-peak operating costs.

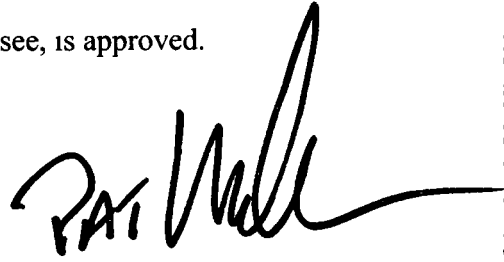
The use of a special contract in dealing with large-usage customers such as the Town serves the public interest because it provides greater flexibility to the Company than is available under its tariff. The unique terms and conditions of the Agreement and the *Special Contract* benefit the Company and its ratepayers by providing the Company a long-term source of revenue and by helping control the Company's production costs during peak usage periods. Through the use of a special contract, the Company can attract the Town and other large-use customers and collect additional revenues to the benefit of the Company and ratepayers without the burden of undergoing a full-scale rate review in order to revise its tariff. In addition, the Agreement provides the Town and its residents with a dependable supply of water at fair and affordable prices.

No party has intervened in this docket or otherwise objected to the Authority's approval of the *Special Contract*. After careful review of the *Special Contract* and of the entire record in this matter and based on the foregoing findings and conclusions, the panel voted unanimously at the April 26, 2004 Authority Conference to approve the *Special Contract* extending the water purchase agreement.

² The Company is provided the opportunity, through special contracts, to secure new business and pursue new prospects in instances where an approved, tariffed rate does not currently exist. Absent the flexibility to negotiate special contracts and submit such contracts to the Authority for approval, the Company would be faced with potential forfeiture of its ability to generate additional revenues that inure to the benefit of its ratepayers. Each special contract is evaluated on its own merits given the circumstances existing at the time of consideration. Notwithstanding the entry of this Order, the Company has the continuing responsibility to acknowledge new customer classes and amend its existing tariff accordingly.

IT IS THEREFORE ORDERED THAT:

The *Extension of Water Purchase Agreement* between Tennessee American Water Company and the Town of Signal Mountain, Tennessee, is approved.

A handwritten signature in black ink, appearing to read "Pat Miller", written over a horizontal line.

Pat Miller, Director

A handwritten signature in black ink, appearing to read "Sara Kyle", written over a horizontal line.

Sara Kyle, Director

A handwritten signature in black ink, appearing to read "Ron Jones", written over a horizontal line.

Ron Jones, Director